IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1045 OF 2005

1. Nandkumar Vithal Hadkar
and Anr. ...Applicants.

V/s

1. The State of Maharashtra
and Anr. ...Respondents.

Mr. N.V. Pradhan with Ms. S.D. Khot, advocate for the applicants.

Ms. P.V. Badadane advocate for respondent No.2.

Mr. D.P. Adsule, APP for the State.

CORAM: V.M. KANADE, J.
DATE : 1st March, 2005

P.C.

1. This is an application filed by the applicants for quashing the complaint which is filed in the Court of Additional Chief Metropolitan Magistrate, 4th Court, Girgaum in respect of C.R. No.95 of 2004.

2. Respondent No.2 has filed an affidavit in which he has stated that the dispute between the parties is amicably settled and he does not wish to pursue the criminal prosecution which is initiated against the present applicants on the complaint filed by respondent No.2.

3. I have perused the complaint. From the complaint,

it can be seen that the only allegation which is made against the present applicants is that an amount of Rs 130/- was removed from the pocket of the complainant and therefore the offence punishable under section 392, 394 read with 34 of the Indian Penal Code was registered against the applicants. In view of the affidavit filed by the respondent No.2 and in view of the fact that the evidence does not disclose that the applicants had, in fact, committed any offence, in my view, this is a fit case for quashing and setting aside the complaint and the criminal case arising out of the complaint. Though the offence alleged is noncompoundable in view of the provisions of section 320 yet, the inherent power of the High Court is not curtailed by the said provision while exercising its jurisdiction under section 482 of the Criminal Procedure Code. Considering the fact that the parties have amicably settled the dispute, in my view, this is a fit case for quashing the said complaint.

4. In the result, the entire proceedings in Criminal Case No.144/PW/2004 and the order of issuing process dated 16/8/2004 passed by the learned Additional Chief Metropolitan Magistrate, 4th Court, Girgaum, Mumbai arising out of C.R. No.94 of 2004 registered at Tardeo Police Station is quashed and set aside.

Affidavit filed by respondent No.2 is taken on record.

5. Application is allowed in the above terms.

V.M.KANADE, J.